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E.O. 12356: N/A
TAGS: EPET, EINV, CO
SUBJECT: GOC RESTRICTS OCCIDENTAL'S USE OF COVENAS FREE
TRADE ZONE

REFS: (A) 86 STATE/360265,
(B) 86 BOGOTA 15620 AND PREVIOUS,
(C) 86 BOGOTA 12790

1. JANUARY 24 EL TIEMPO REPORTED THAT THE MINISTRY OF MINES AND ENERGY, IN RESPONSE TO A COMPLAINT BY THE CONTROLLER GENERAL, HAS DENIED OCCIDENTAL EXEMPTION FROM IMPORT DUTIES ON EQUIPMENT USED FOR THE PETROLEUM TERMINAL AT COVENAS, INCLUDING THE 384,000 DWT SUPER TANKER USED AS A STORAGE FACILITY. AS A RESULT, OXY MAY BE LIABLE FOR SOME 4 BILLION PESOS (ABOUT 18 MILLION DOLLARS AT CURRENT EXCHANGE RATE) IN DUTIES ON EQUIPMENT ALREADY IMPORTED.

2. THE MINISTRY OF MINES AND ENERGY HAS DETERMINED THAT THE COVENAS TERMINAL IS NOT/NOT PART OF THE PIPELINE FROM CANO LIMON, AND THEREFORE THE TERMINAL'S COMPONENTS

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ARE NOT ENTITLED TO DUTY-FREE STATUS. THE MINISTRY ALSO ABOLISHED THE AGREEMENT BETWEEN OXY AND THE CARTAGENA FREE TRADE ZONE AUTHORITY WHICH EXTENDED ZONE PRIVILEGES TO COVENAS. (SEE REF C, PARA 13, COMMENTS BY ENERGY

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UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: OSCAR J. OLSON
DATE/CASE ID: 24 OCT 2002 200201334

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MINISTER PERRY THAT THIS AGREEMENT WAS ILLEGAL AND DONE WITHOUT CONSULTATION WITH THE GOC OR ECOPETROL.)

3. A NEW AGREEMENT HAS BEEN SIGNED BETWEEN OXY AND THE CARTAGENA FREE TRADE ZONE AUTHORITIES UNDER WHICH PARTS AND EQUIPMENT NEEDED TO OPERATE THE TERMINAL AND PIPELINE MAY ENTER THE COVENAS DUTY FREE ZONE FOR STORAGE UNTIL SEPTEMBER 22, 1988. HOWEVER, WHEN SUCH PARTS AND EQUIPMENT ARE REMOVED FROM THE COVENAS ZONE FOR USE ON THE TERMINAL OR PIPELINE, APPROPRIATE DUTIES MUST BE PAID. UNDER THIS NEW AGREEMENT, OXY WILL PAY THE CARTAGENA ZONE AUTHORITIES 119 MILLION PESOS (5.4 MILLION DOLLARS) BETWEEN NOW AND MARCH 1988 FOR OPERATING THE COVENAS ZONE, INCLUDING WAREHOUSING COSTS. (THIS IS IN ADDITION TO POSSIBLE DUTY PAYMENTS -- SEE PARA 6 BELOW.)

4. LAST DECEMBER, THE CONTROLLER GENERAL ANNOUNCED THAT INVESTIGATION OF OXY'S FREE TRADE ZONE ARRANGEMENT AT COVENAS HAD BEEN MADE AND THAT OXY HAD EVADED 4 BILLION PESOS IN DUTIES. THE CONTROLLER ALSO CHARGED THAT THE ARRANGEMENT WAS ILLEGAL. EL TIEMPO REPORTED THAT BECAUSE OF THE CONTROLLER'S CHARGES, THE ELN HAD TARGETED THE COVENAS FACILITY, INCLUDING THE SUPER TANKER.

6. OXY GENERAL MANAGER CONFIRMED SUBSTANCE OF NEW AGREEMENT ON COVENAS FREE TRADE ZONE. HE SAID, HOWEVER, THAT THE ORIGINAL AGREEMENT SIGNED IN NOVEMBER 1985 HAD ALL THE NECESSARY GOC APPROVALS FROM THE MINISTRY OF LIMITED OFFICIAL USE

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ECONOMIC DEVELOPMENT. THERE WAS A DIFFERENCE OF OPINION FROM THE BEGINNING WITH THE MINISTRY OF MINES AND ENERGY WHICH NOW SEEMS TO HAVE OVERRULED THE DEVELOPMENT MINISTRY. THE MANAGER ADDED THAT THE QUESTION OF EXONERATION OF DUTIES HAS NOT/NOT BEEN DECIDED AS YET. HE ACKNOWLEDGED THAT HE WAS NOT OPTIMISTIC, GIVEN WHAT HE CALLED "THE POLITICAL PRESSURES TO DO SOMETHING ABOUT OXY." IF SUCH DUTIES ARE LEVIED, THEY WOULD BE PAID 25 PERCENT BY OXY, 25 PERCENT BY SHELL AND 50 PERCENT BY ECOPETROL.

7. THE COVENAS FREE TRADE ZONE ISSUE IS INDEPENDENT OF THE PENDING 900 MILLION DOLLAR TAX CLAIM AGAINST OXY FOR THE 1983 SALE OF ITS COLOMBIAN CITIES SERVICE SUBSIDIARY

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(REFS A AND B).
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